IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Bail Appl..No. 3810 of 2007()

CRIME (NOT KNOWN) CENTRAL POLICE STATION, ERNAKULAM

PETITIONERS

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1. S.K.SAJEEV, FLAT NO. 8 B,
J.M.PARADISE, PALARIVATTOM,
KOCHI-25

2. REKHA SAJEEV, D/O.T.N.SUGATHAN
FLAT NO.8 B, J.M.PARADISE
PALARIVATTOM, KOCHI-25

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENTS:

STATE OF KERALA REP: BY
ASSISTANT COMMISSIONER OF POLICE
CENTRAL POLICE STATION, ERNAKULAM
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

ADDL. R2. P.B. USHA, W/O. DEVADAS,
PURATHUKKARAN HOUSE, AZAD ROAD, KALOOR
ERNAKULAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM DIST.

(IMPLEADED AS ADDL.R2 AS PER ORDER ON CRL.M.A.
3156/07 DT.27.6.2007)

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR
R2 BY ADV. SRI.C.P. PEETHAMBARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3810 of 2007

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Dated this the 27th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioners are spouses. Against them the defacto complainant, who has got himself impleaded in this petition as Addl. second respondent, has filed a private complaint. That complaint has been referred to the police. Investigation is in progress. Allegation has been raised in that complaint of offences punishable, inter alia, under Sections 409 and 420 I.P.C.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. At worst, even accepting all the allegations in the complaint, only a civil dispute essentially is revealed. To pressurise the petitioners to settle the civil dispute on terms dictated by the second respondent, such a false complaint has been filed against the petitioners. It is prayed that anticipatory bail may be granted in favour of the petitioners to save them from the undeserved trauma of arrest and incarceration in prison.

3. Notice is given to the learned Prosecutor. The learned Prosecutor submits that the State has no objection in anticipatory bail being granted to the petitioners and the State will be satisfied if appropriate conditions are imposed in the interests of a fair, efficient and expeditious investigation.

4. The second respondent, who has entered appearance, raises vehement objections. It is submitted that the petitioners have taken the defacto complainant, her relatives and friends for a ride and had committed the offence of cheating. It is unnecessary for me to advert to detailed facts. Suffice it to say that the crux of the specific allegations raised in the complaint in so far as it relates to the defacto complainant directly is that an amount of Rs.320,000/- has been paid by the defacto complainant to the accused persons for purchase of land in her name and that such lands have not been purchased. Of course, there is a further general and sweeping assertion that a total amount of Rs. 75 lakhs has been handed over by the friends and relatives of the defacto complainant and in their favour no documents have been issued so far. Those persons, other than the defacto complainant, have not raised any complaint so far and there is no specific allegation relating to the transactions with them. It is not hence necessary to advert to that aspect in detail.

5. So far as the amount of Rs.3.20 lakhs allegedly handed over by the defacto complainant to the petitioners is concerned, the counsel for the petitioners asserts that even admittedly documents have been executed in favour of the defacto complainant and he has already received title over the properties valued much more than the amount of Rs.3.20 lakhs. In these circumstances anticipatory bail may be granted to the petitioners, it is prayed.

6. I shall carefully avoid any detailed discussion on merits about the acceptability of the allegations raised or the credibility of the data collected. I am satisfied that the petitioners are entitled to issue of direction under Section 438 Cr.P.C. in their favour. Appropriate conditions can, of course, be imposed to ensure the interests of a fair, efficient and expeditious investigation.

7. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 4.7.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.1,00,000/-

(Rupees one lakh only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 4 p.m. on 5.7.07, 6.7.07 and 7.7.2007 and thereafter on all Mondays between 10 a.m. and 12 noon for a period of three months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 4.7.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 4.7.2007 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.1,00,000/- each without any surety undertaking to appear before the learned Magistrate on 4.7.2007.

(R. BASANT)
Judge

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